

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAANDREW PATRICK OBRIEN,  
Plaintiff,

v.

TEAM SAN JOSE,  
Defendant.

Case No. 22-cv-07152-NC

**ORDER DENYING RENEWED  
MOTION TO APPOINT  
COUNSEL FOR PLAINTIFF;  
EXTENDING DEADLINE TO  
FILE AMENDED COMPLAINT;  
AND EXTENDING DATE FOR  
CASE MANAGEMENT  
CONFERENCE**

Re: ECF 15

Self-represented Plaintiff Andrew Patrick OBrien filed a renewed motion seeking appointment of counsel under 28 U.S.C. § 1915(e)(1). ECF 15. In response to OBrien's first request for appointed counsel, the Court referred him to the Federal Pro Se Program at the San Jose Courthouse. ECF 13. OBrien reports that he contacted the Pro Se Program as recommended and has continued to seek private counsel. ECF 12. The Court finds that OBrien has used reasonable efforts to retain private counsel.

There is no constitutional or statutory right to free appointed counsel in a civil lawsuit. Nevertheless, the Court has established procedures for the discretionary appointment of counsel, set forth in General Order 25. One of the eligibility requirements is that the referring judge "must determine the case merits pro bono representation (this does not mean determining that the litigant is likely to prevail on the merits, but that the litigant's claims are cognizable and the factual and legal issues warrant proper presentation

1 to the Court with the assistance of an attorney)." General Order 25, Part I.A.4. On the  
2 present record, the Court is not persuaded that this case merits pro bono representation.  
3 The Court has twice screened OBrien's complaints and found that they did not state a  
4 plausible claim for legal relief. ECF 5, 11. The Court has granted OBrien a further  
5 opportunity to file an amended complaint. ECF 11. The Court therefore denies OBrien's  
6 renewed motion to appoint counsel.

7 In the interest of justice, however, the Court grants OBrien an extension of time to  
8 file an amended complaint from February 28, 2023, to April 5, 2023. If OBrien does not  
9 file a plausible amended complaint by the deadline, the Court will recommend dismissal of  
10 his case.

11 The Court also continues the Case Management Conference from March 15, 2023,  
12 to June 21, 2023, at 10:00 a.m. by telephone. A Case Management Conference statement  
13 must be filed by June 14, 2023.

14 Finally, the Court reminds OBrien that the Federal Pro Se Program is available by  
15 phone appointment at (408) 297-1480.

16 **IT IS SO ORDERED.**

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18 Dated: March 6, 2023

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NATHANAEL M. COUSINS  
United States Magistrate Judge